

REMARKS

This is in response to the office action mailed April 16, 2004. A Petition for a one month extension of time with fee is enclosed herewith. Claims 1 to 26 are pending in this application. Based on the amendment as well as the discussion herein, favorable reconsideration of all of the claims is requested.

Claims 1-19, 26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The Applicant addresses the specific findings of the Examiner as follows:

(1) Preselected size of beads

The size of beads can vary, an advantage of the invention. However, Applicant does indeed provide bead size examples at page 11 lines 17 to 23.

(2) Reducing surfactancy of beads

Note that the surfactancy is reduced prior to attachment of the antigen. The position of the step is important although it is submitted that the manner of reducing surfactancy would be known.

(3) Prewashing step

The prewashing steps help to reduce the surfactancy to the level claimed. Clarification of the Examiner's comments herein would be appreciated.

The Examiner has rejected the claims under 35 U.S. C. 112, first paragraph, because the specification, while being enabling for carbonate buffer within a certain pH range, does not reasonably provide enablement for any buffer at any pH level. In this regard, the Examiner is respectfully requested to consider the fact that the specifics are preferred embodiments. The series of steps

recited in the claims is, as a whole, different from the art cited, and Applicant requests that the broader language is appropriate in the claims.

Claims 1-19, 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter. As regards "washing", note that the claim is for the preparation of a "no wash" assay, although the assay itself when used does not involve washing.

The specification provides examples of "buffer" and "protein", as well as "size" (please see above). The claim clearly states that it is the "surfactancy of the beads" that is reduced to no more than 5%.

Favorable review is requested. The Examiner's findings that the Applicant's arguments regarding the previously cited references is persuasive is appreciated and the issues for resolution now concern matters unrelated to the merits of the invention.

If the Examiner has any questions, he is invited to contact the undersigned at (818)710-2788.

CONTINUED NEXT PAGE

Please acknowledge receipt hereof by stamping and returning the enclosed return postcard.

Respectfully submitted,



Colin P. Abrahams (Reg. No. 32,393)
Attorney for the Applicant
5850 Canoga Avenue, Suite 400
Woodland Hills, California 91367
Tel: (818)710-2788; Fax: (818)710-2798

Enclosed: Petition for extension,
Check
Return postcard

Certificate of Mailing (37 CFR 1.8):

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on August 16, 2004.



Colin P. Abrahams

1007-103.US53